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BEFORE THE ARIZONA CORPORATION COMMISSION

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2 COMMISSIONERS

- 3 KRISTIN K. MAYES, Chairman
- 4 GARY PIERCE
- 4 PAUL NEWMAN
- 5 SANDRA D. KENNEDY
- 5 BOB STUMP

2010 JAN 29 P 4: 33

AZ CORP COMMISSION  
DOCKET CONTROL

7 IN THE MATTER OF THE APPLICATION  
8 OF ARIZONA PUBLIC SERVICE  
9 COMPANY FOR APPROVAL OF ITS 2010  
10 RENEWABLE ENERGY STANDARD  
11 IMPLEMENTATION PLAN AND  
12 DISTRIBUTED ENERGY  
13 ADMINISTRATIVE PLAN AND  
14 REQUEST FOR RESET OF RENEWABLE  
15 ENERGY ADJUSTOR

DOCKET NO. E-01345A-09-0338

**NOTICE PURSUANT TO  
A.R.S. § 40-253**

15 Arizona Public Service Company ("APS" or "Company") is submitting this notice to  
16 clarify the record regarding Decision No. 71459, dated January 11, 2010. Decision No.  
17 71459 has omissions and does not include the Commissioners' amendments that were passed  
18 during the December 22, 2009 Open Meeting. (Attached Exhibit A includes amendments  
19 passed during the Open Meeting, and the relevant pages of the transcripts from the December  
20 22, 2009 Open Meeting.) APS has discussed the erroneous filing with Commission Staff, and  
21 APS understands that the decision will be corrected and a new decision will be docketed.

22 For these reasons, APS contends that Decision No. 71459 cannot be considered a  
23 "final decision" of the Commission, and that the time clock for rehearing pursuant to A.R.S.  
24 § 40-253 has not yet begun.

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Arizona Corporation Commission

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1 In the alternative, if Decision No. 71459 is construed to be a final order, APS hereby  
2 requests a rehearing for the reasons stated above.

3 RESPECTFULLY SUBMITTED this 29th day of January 2010.

4 PINNACLE WEST CAPITAL CORPORATION  
5 LAW DEPARTMENT

6  
7 By: 

8 Deborah R. Scott

9 Attorney for Arizona Public Service Company

10 ORIGINAL and thirteen (13) copies  
11 of the foregoing filed this 29th day of  
12 January, 2010, with:

13 Docket Control  
14 ARIZONA CORPORATION COMMISSION  
15 1200 West Washington Street  
16 Phoenix, Arizona 85007

17 COPIES of the foregoing hand-delivered,  
18 emailed and/or mailed this 29th day of  
19 January, 2010, to:

20 *See attached list of parties.*

21 

Copies of the foregoing hand-delivered mailed/emailed  
this 29th day of January, 2010 to:

Steve Olea  
Arizona Corporation Commission  
1200 West Washington Street  
Phoenix, AZ 85007

Janice Alward  
Arizona Corporation Commission  
1200 West Washington Street  
Phoenix, AZ 85007

Lyn Farmer  
Arizona Corporation Commission  
1200 West Washington Street  
Phoenix, AZ 85007

C. Webb Crockett  
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Phoenix, AZ 85012

Mr. David L. Townley  
Vice President, US Sales & Marketing  
Infinia Corporation  
6811 West Okanogan Place  
Kennewick, WA 99336

Mr. Scott Wakefield  
Ridenour, Hienton & Lewis, P.L.L.C.  
201 North Central Avenue  
Suite 3300  
Phoenix, AZ 85004-1052

Mr. Adam Browning  
Executive Director  
The Vote Solar Initiative  
300 Brannan Street  
Suite 609  
San Francisco, CA 94107

Mr. Herbert Abel  
Chief Executive Officer  
Green Choice Solar  
15344 North 83rd Way  
Suite 101  
Scottsdale, AZ 85260

**Commissioners' Amendments that were passed at the December 22, 2009 Open Meeting that were erroneously omitted in Decision No. 71459 filed on January 22, 2009:**

1. Mayes Proposed Amendment 1: *see* Open Meeting Transcript, page 46, line 11 – page 47, line 2.
2. Mayes Proposed Amendment 2: *see* Open Meeting Transcript, page 54, lines 1-6.
3. Mayes Proposed Amendment 4: *see* Open Meeting Transcript, page 68, lines 6-21.

**Verbal Amendments:**

*See* Open Meeting Transcript, page 95, lines 2-13:

*See* Open Meeting Transcript, page 95, line 22 – page 96, lines 1-17:

*See* Open Meeting Transcript, page 96, line 19 – page 97, lines 1-7:

*See* Open Meeting Transcript, page 97, line 9 – page 98, lines 1-2:

*See* Open Meeting Transcript, page 98, lines 4-13:

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<b>THIS AMENDMENT:</b>	
_____ Passed _____	Passed as amended by _____
_____ Failed _____	Not Offered _____

2009 DEC 21 P 3: 23

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AZ CORP COMMISSION  
DOCKET CONTROL

**MAYES PROPOSED AMENDMENT 1**

DOCKETED BY	
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TIME/DATE PREPARED: December 21, 2009

COMPANY: Arizona Public Service Company

AGENDA ITEM NO. U-7

DOCKET NO. E-01345A-09-0338

OPEN MEETING DATE: Dec. 22, 2009

Page 13, line 10, INSERT New Finding of Fact: "The Commission remains concerned that Arizona utilities are not adequately promoting and marketing to homeowners the availability of REST funds for residential distributed solar projects. While we appreciate and approve of the enhancements to APS' outreach efforts proposed in the Supplement to its 2010 REST Implementation Plan, we would like to see the Company go further. Specifically, we believe it is in the public interest for APS to participate in creating a joint website to be titled "Go Solar Arizona" with other ACC-regulated electric utilities that would make available to Arizonans at a minimum, information regarding the availability of all residential and commercial solar incentives, including utility rebates offered through the REST, as well as applicable state and federal tax credits; information about the RES; information regarding any relevant Commission sponsored workshops on renewable energy; information regarding the status of the utility's efforts toward meeting the RES; and information regarding the geographical location of residential and commercial and utility scale systems in the Company's service territory. As the Company develops a "solar calculator" that enables customers to calculate the up-front costs of installing solar after rebates and incentives are factored in, we believe this calculator should be made available on the "Go Solar Arizona" web site, as well.

Moreover, we believe this web site should make available twice monthly on the new web site at least the following information: the reservation request review date; the incentive program under which the incentive is being offered; the amount the of incentive offered; the size and nature of the systems (whether commercial or residential); the step in the reservation process each system is in at the time it is posted; total cost of the system; nameplate rating of the system; current incentive application status; and the name of the installer of the system. We believe that providing this information will increase the transparency of the REST, provide customers and installers with greater information regarding the status of system reservations, and encourage competition among installers, thus benefiting ratepayers."

Page 14, line 4, INSERT New Ordering Paragraphs: "IT IS FURTHER ORDERED THAT Arizona Public Service Company shall participate in the creation of a new "Go Solar Arizona" web site, and APS shall seek the participation of all ACC-regulated utilities for the purpose of joint operation of the web-site. The web-site will provide Arizonans at a minimum information regarding the availability of all residential solar incentives, including utility rebates offered

through the REST, and state and federal tax credits; information about the RES; information regarding the status of the Company in meeting the RES; information regarding the location of residential and commercial and utility scale systems statewide, and any "solar calculator" that is created by the Company.

**IT IS FURTHER ORDERED** that Arizona Public Service Company shall make publicly available, twice monthly, via the new "Go Solar Arizona" web site at least the following information: the reservation request review date; the incentive program under which the incentive is being offered; the amount of incentive offered; the size and nature of the systems (whether commercial or residential); the step in the reservation process each system is in at the time it is posted; total cost of the system; nameplate rating of the system; current incentive application status; and the name of the installer of the system.

**IT IS FURTHER ORDERED** that Utilities Division Staff shall annually file, on or before November 1st beginning in 2010, a memorandum stating whether the Go Solar Arizona website is in compliance with this Decision, and if the website is not in compliance, Staff shall list the reasons why."

**Make all conforming changes.**

1 MR. MAHRER: We are working with our own IS  
2 group to kind of schedule a number of different  
3 deployments, but our hope is to have it function third  
4 quarter of this year.

5 CHMN. MAYES: Of 2010?

6 MR. MAHRER: I am sorry, correct. Thank you for  
7 the clarification.

8 CHMN. MAYES: Are there any other questions  
9 about that amendment? No?

10 (No response.)

11 CHMN. MAYES: Okay. Seeing no -- Mr. Olea, I am  
12 sorry, I need to make the verbal amendment to the  
13 amendment. So I will move, I think it is on the second  
14 page of this amendment, on the second line after the  
15 word location, insert by postal zip code, comma, by  
16 postal zip code, comma.

17 All those in favor of that verbal amendment, say  
18 aye.

19 (A chorus of ayes.)

20 CHMN. MAYES: Opposed.

21 (No response.)

22 CHMN. MAYES: Okay. I will move Mayes Proposed  
23 Amendment No. 1 as amended. All those in favor say aye.

24 (A chorus of ayes.)

25 CHMN. MAYES: Opposed.

1 (No response.)

2 CHMN. MAYES: Okay. Mayes No. 1 passes.

3 Mayes No. 2, I want to get into a discussion  
4 with my colleagues and with the company about the small  
5 generation pilot program. And this is on page 13, line  
6 10 of the proposed order.

7 The company did awhile ago, and I probably want  
8 to ask the company exactly when they did the RFP, but  
9 awhile ago they did an RFP for small renewable energy  
10 projects. There was a great deal of frustration, I  
11 think it really started in Flagstaff quite frankly, on  
12 the part of communities and small renewable energy  
13 developers, that they weren't, they weren't, their  
14 projects weren't fitting into APS' RFPs very easily.  
15 And so APS went out and did an RFP, and lo and behold  
16 100 people showed up for, 100 developers showed up for  
17 their first phone call. They had 30 bidders and then I  
18 think only ended up choosing one or two; although, I  
19 don't know at this point. I did question the company's  
20 witnesses during the rate case about this. I don't know  
21 how many they ultimately have chosen and I don't know  
22 what has happened to those projects. It has been a long  
23 time and we still haven't seen them yet.

24 So, Mr. Mahrer, where are these projects? How  
25 many did you pick? And can you describe for the

<b>THIS AMENDMENT:</b>	
<input type="checkbox"/> Passed	<input type="checkbox"/> Passed as amended by _____
<input type="checkbox"/> Failed	<input type="checkbox"/> Not Offered

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**ORIGINAL**

**MAYES PROPOSED AMENDMENT 2**

TIME/DATE PREPARED: December 21, 2009

COMPANY: Arizona Public Service Company

AGENDA ITEM NO. U-7

DOCKET NO. E-01345A-09-0338

OPEN MEETING DATE: Dec. 22, 2009

Page 13, line 10, INSERT New Finding of Fact: "The Commission is pleased that the Company's Small Generation Pilot Program was so successful that it drew more than 100 participants, and ultimately 30 bidders. We believe the results of this RFP demonstrate an untapped supply of small-scale renewable energy projects throughout Arizona. However, we are concerned that in the process of winnowing its RFP finalists down to only one or two winners, the Company may be preventing a number of worthy and potentially valuable renewable energy projects from coming on-line. Therefore, we believe that the Company should either refresh the RFP and bring forward for the Commission's consideration additional projects from the newly refreshed RFP, or utilize the original RFP and file additional projects for the Commission's review and consideration."

Page 14, line 4, INSERT New Ordering Paragraph: "IT IS FURTHER ORDERED THAT the Company shall either refresh the Small Generation RFP and file within 90 days of the effective date of this Decision with Docket Control for the Commission's consideration additional projects from the newly refreshed RFP, or utilize the original RFP and bring additional projects for the Commission's review and consideration."

Make all conforming changes.

Arizona Corporation Commission  
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1 I moved it but I will move Mayes Proposed Amendment

2 No. 2. All those in favor say aye.

3 (A chorus of ayes.)

4 CHMN. MAYES: All those opposed.

5 (No response.)

6 CHMN. MAYES: Okay. Mayes No. 2 passes.

7 Let me offer Mayes No. 4 now. And I just, you  
8 know, I wanted to make sure that we were clear on the  
9 issue of what counted as DG and what doesn't count as  
10 DG. And I don't know if this is made more complicated  
11 by Staff's issue or Staff thinks this is necessary or  
12 not.

13 I know that the order indicates that it is  
14 Staff's view that the utility owned projects identified  
15 in this order are not distributed generation, but it  
16 wasn't clear to me that the order itself called that  
17 out. So, Mr. Olea, do you want to address that? The  
18 order refers back to, the ordering paragraphs merely  
19 refer back to the plan as approved as discussed herein.  
20 So my amendment would make it clear in the ordering  
21 paragraphs.

22 MR. OLEA: And, Madam Chair, Commissioners, we  
23 don't have any problem with your amendment. It  
24 basically just spells out what the rule says and it does  
25 make it clear that the non, that the nonutility

<b>THIS AMENDMENT:</b>	
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<input type="checkbox"/> Failed	<input type="checkbox"/> Not Offered

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**MAYES PROPOSED AMENDMENT 4**

ORIGINAL

TIME/DATE PREPARED: December 21, 2009

COMPANY: Arizona Public Service Company

AGENDA ITEM NO. U-7

DOCKET NO. E-01345A-09-0338

OPEN MEETING DATE: Dec. 22, 2009

Page 13, line 4.5, INSERT New Finding of Fact: "The Commission wishes to address concerns raised about utility-owned projects and their qualification as distributed generation resources. The Commission takes note of R14-2-1805 subsection D which provides that the distributed renewable energy requirement should be met "...one-half...from residential applications and the remaining one-half from non-residential, **non-utility** applications." Accordingly, as defined under the RES, utility-owned applications would not be eligible to meet the non-residential portion of the distributed generation requirement."

Page 14, line 4, INSERT New Ordering Paragraph: "IT IS FURTHER ORDERED THAT the Company shall be, consistent with the Renewable Energy Standard rules, prohibited from utilizing utility-owned facilities for purposes of meeting the non-residential portion of its distributed generation requirement."

Make all conforming changes.

Arizona Corporation Commission  
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2009 DEC 21 P 4: 05

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1 that the Staff revised recommended order adopted that  
2 position. And we would like to see that issue resolved  
3 ideally today if the Commission is prepared to resolve  
4 that issue today.

5 CHMN. MAYES: Okay. Thank you, Mr. Wakefield.

6 I am going to move Mayes No. 4. If the  
7 Commission wants to revisit this issue next month or  
8 next year, that's fine. We can certainly do that. But  
9 I would move Mayes Proposed No. 4. And if there are no  
10 other comments or concerns about it, all those in favor  
11 say aye.

12 (A chorus of ayes.)

13 CHMN. MAYES: All opposed.

14 (No response.)

15 CHMN. MAYES: Okay. Mayes 3 passes -- or, I am  
16 sorry, Mayes 4. Did I say 3? Did I say 4?

17 (An off-the-record discussion ensued.)

18 CHMN. MAYES: Colette, can you read that back.

19 (The record was read by the reporter as  
20 requested.)

21 CHMN. MAYES: Okay. So Mayes 4 passes.

22 Mayes Proposed Amendment No. 3 is an amendment  
23 that would deal with the advertising budget of the  
24 company. And I do think we ought to have a discussion  
25 about the company's advertising, which we had a pretty

1 thorough discussion of this back in the fall when we  
2 were discussing the company's failure to meet its  
3 residential requirements under the REST and the movement  
4 of the \$20 million from the school's program, or into  
5 the school's program. Under the -- I was surprised.  
6 Under the company's proposal, they actually decreased  
7 the advertising budget. And I was a little surprised by  
8 that. So my amendment obviously increases it slightly.

9 I went back and forth about whether to just hold  
10 it constant at the level that it was this year or to  
11 increase it. But I certainly think decreasing it is  
12 bizarre in the light of the company's failure to meet  
13 its residential requirements.

14 Mr. Mahrer.

15 MR. MAHRER: Chairman, Commissioners, I think  
16 that the best way to explain the decrease was simply  
17 attempting to recognize that there were significant  
18 investments in production costs behind, I will call  
19 them, mass media efforts in 2010. We were simply  
20 deploying those as scaled very similar to what we are  
21 doing in 2009. It was not intending to reflect a  
22 reduction in advertising costs.

23 Certainly there is, with the additional  
24 marketing budget, with the Go Solar Arizona website, to  
25 me those all play well together, there is absolutely no

1 that line?

2 MR. OLEA: Go back to page 8, line 21 and a  
3 half, after the words distributed energy, put a comma,  
4 except as allowed by Commission rules.

5 So you wanted to just vote one at a time so I  
6 don't get confused?

7 CHMN. MAYES: Okay. I will move that we amend  
8 page 8, line 21 and a half, and add a comma after energy  
9 and the words except as allowed by Commission rules.  
10 All those in favor say aye.

11 (A chorus of ayes.)

12 CHMN. MAYES: Opposed.

13 (No response.)

14 CHMN. MAYES: Okay.

15 MR. OLEA: Go to page 9 on Finding of Fact 30.  
16 And to put it off until February, what you would do is,  
17 on line 20, delete everything after the word recommended  
18 and replace it with that a decision on the AZ Sun  
19 program be deferred to no later than the February 2010  
20 open meeting in order to more thoroughly analyze the  
21 issues related to this program.

22 CHMN. MAYES: Okay. And that was on page 9,  
23 line -- did you say page 9, line 14? I may have  
24 misheard you.

25 MR. OLEA: Yes, page 9, the Finding of Fact 30

1 starts on line 14.

2 CHMN. MAYES: Got you.

3 I would move that on page 9, line 14, Finding of  
4 Fact 30, we strike the sentence after recommended,  
5 strike the entire sentence and add the words after the  
6 word recommended that a decision on the AZ Sun program  
7 be deferred to no later than the February 2010 open  
8 meeting in order to allow a more --

9 MR. OLEA: To more normally analyze.

10 CHMN. MAYES: -- to more normally analyze the  
11 issues related to this program.

12 MR. OLEA: Program.

13 CHMN. MAYES: All those in favor of that verbal  
14 amendment say aye.

15 (A chorus of ayes.)

16 CHMN. MAYES: Opposed.

17 (No response.)

18 CHMN. MAYES: Okay.

19 MR. OLEA: Okay. Go to page 10, Finding of  
20 Fact 35. That's on line 24 of that Finding of Fact 35.  
21 Just delete the last sentence that starts with Staff  
22 does not recommend. Just totally delete that. That's  
23 taken care of by a previous change that we made.

24 CHMN. MAYES: Okay. I would move page 10, an  
25 amendment on page 10, line 24, delete the words Staff

1 does not recommend that this project qualify as  
2 distributed energy.

3 All those in favor of that verbal amendment, say  
4 aye.

5 (A chorus of ayes.)

6 CHMN. MAYES: Opposed.

7 (No response.)

8 CHMN. MAYES: Okay.

9 MR. OLEA: Okay. Page 12, line 21 and a half,  
10 Finding of Fact 47, you would do the same thing we did  
11 on Finding of Fact 30. You would delete everything  
12 after the word recommended and replace it with that a  
13 decision on the AZ Sun program be deferred to no later  
14 than the February 2010 open meeting in order to more  
15 thoroughly analyze the issues related to this program.

16 CHMN. MAYES: Okay. On page 12, line 22,  
17 Finding of Fact 47, I would move the following  
18 amendment. Strike the words after the word recommended  
19 through the entire sentence and add the words that a  
20 decision on the AZ Sun program be deferred to no later  
21 than the February 2010 open meeting in order to more  
22 thoroughly analyze the issues related on this program.

23 All those in favor of that verbal amendment say  
24 aye.

25 (A chorus of ayes.)

1 CHMN. MAYES: Opposed.

2 (No response.)

3 CHMN. MAYES: Okay.

4 MR. OLEA: The last one is on page 13, Finding  
5 of Fact 49, line 3. Just delete that last sentence that  
6 starts with Staff does not recommend.

7 CHMN. MAYES: Okay. I would move page 13, line  
8 3, strike the sentence Staff does not, the sentence that  
9 begins Staff does not recommend.

10 All those in favor say aye.

11 (A chorus of ayes.)

12 CHMN. MAYES: Opposed.

13 (No response.)

14 CHMN. MAYES: Okay.

15 MR. OLEA: That's it.

16 CHMN. MAYES: That's it? Okay. That was the  
17 biggest Staff verbal amendment I have seen ever.

18 Okay. We did all of them in succession. So do  
19 we have any other, did I miss any orange paper?

20 Mr. Mahrer.

21 MR. MAHRER: Madam Chair, Commissioners, we were  
22 playing with some wording that might help with the  
23 multifamily question brought up by one of the  
24 commenters. I don't know if that would be productive at  
25 this point.